



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 22, 2000

David Stoecklein
PO Box 856
Ketchum, ID 83340

Re: Reno/Johnson Lateral from Upper Fish Hatchery Canal

Dear Mr. Stoecklein,

I noticed that the letter I sent you dated September 18, 2000 had a sentence omission caused by a document format problem. The omission is found in transition from the first to second page. Enclosed please find a corrected copy of the letter.

Please also note that I did not send copies of this correspondence to Dr. Reno or Scott Johnson, nor did I include their names on the carbon copy list. This too was a mistaken omission. The revised letter therefore includes both Dr. Reno and Scott Johnson on the carbon copy list. I apologize for any inconvenience or confusion caused by these omissions.

Respectfully,

A handwritten signature in cursive script that reads 'Tim Luke'.

Tim Luke
Water Allocations

Enclosure

Cc: Doug Rosenkrance, Watermaster
Lynn Reno
Scott Johnson
Eastern Region



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Re: Reno/Johnson Lateral from Upper Fish Hatchery Canal

Dear Mr. Stoecklein,

This letter documents the Department's investigation of your concerns regarding water use from the Reno/Johnson lateral from the Upper Fish Hatchery Canal. Specifically, you had complained that Mr. Reno's water right, 34-00470A was being used on lands owned by Scott and/or Vic Johnson. You also complained about the adequacy of measuring devices on two ditches operated by Scott and Vic Johnson and asked for measurements of the total amount of water diverted to the Reno place.

In response to your concern, IDWR staff visited the area on August 10, 2000 to check on water use from the lateral. A brief inspection of the Reno place of use was also made on August 2, 2000 by an IDWR field inspector who was in the Mackay area on other business. These visits were made with no prior arrangements or announcements to any right holders. The Department normally contacts users before making such inspections but did not do so in this case due to your concern that such action would cause the users to cease the alleged inappropriate water use. Given this sensitivity, we also limited our contact with the watermaster regarding this visit. Visiting these sites without any user or watermaster contact makes our inspections more difficult and usually less productive. A copy of a memo summarizing the August 10th visit and findings is attached to this letter.

As you will see from the attached memo regarding the August 10 visit, water was not being diverted from the lateral at the time of the visit. Instead, the lateral was found to discharge to the Shoupe Ditch a short distance below the ditch heading form Warm Springs Creek. The field inspector did not follow the Shoupe Ditch below the confluence with the lateral. The field inspector estimated that the flow did not exceed 1 cfs. The Water District 34 watermaster personally measured the lateral heading on both July 27th and August 16th at 1.28 cfs (64 inches).

The August 2 inspection was limited to the Reno place of use as described by right 34-00470A. This visit confirmed use of the Reno-Unger well on both the Reno and Unger places of use. The well appeared to be used on the Reno place via two wheel lines. There may also have been a short hand line used from the same well located on the west-end of the property but this was not confirmed since the owner or operator was not present. The inspector could not identify a separate lateral from the Upper Hatchery Canal being used at the Reno place. The inspector

did not have time to follow the lateral from the canal and was therefore unaware that the lateral discharged to the Shoupe Ditch. The Water District has measured the combined use of the Reno/Unger well in both 1997 and 1998. The 1998 measurement shows that 475 gallons per minute (1.06 cfs) was diverted to Reno's property using two wheel lines. No reference was made in 1998 to the short hand line. The measured rate is a reasonable discharge rate for two wheel lines and a hand line. Assuming the same discharge rate from 1998 along with the 1 to 1.28 cfs diverted from the Hatchery Canal, the total combined rate of diversion under the Reno rights on or about August 2 and 10 was estimated to be about 2 to 2.34 cfs. This rate slightly exceeds the 1.96 cfs authorized by Reno's rights. Please note that this higher rate is an estimate only. Actual measurements were not made due to lack of time and/or proper equipment at the time of the visits plus some uncertainty regarding the system since no input was available from the owner or operator. IDWR will coordinate with the watermaster next year to make one or more actual measurements of the total combined use on the Reno place.

On August 14th I personally contacted Scott Johnson and inquired about the lateral discharging to the Shoupe Ditch as well as the nature of your complaints. Mr. Johnson confirmed that he is leasing the Reno place this year and that the lateral was discharging to the Shoupe Ditch on August 10th. He said that the lateral water was being re-diverted to flood irrigate the far northeastern portion of Reno's property near Warm Springs Creek. This appears to be the same area that IDWR staff confirmed was being flood irrigated with lateral water two years ago. I have confirmed that this irrigated area is a valid place of use under Reno's right and that this area could be flood irrigated by re-diverting the lateral to the Shoupe Ditch.

Mr. Johnson confirmed to me on August 14th that the Reno right was commingled with Johnson's two water rights from the Upper Hatchery Canal and used on several pivot corners belonging to Johnson. Mr. Johnson explained that he uses the Reno right on his several pivot corners for about 12 to 15 days out of the irrigation season. Johnson stated that this 12 to 15 day-run had finished on or about August 1. Mr. Johnson stated that he and Reno have an agreement that provides for rotation of the rights between their respective properties. Johnson said a copy of a written rotation agreement between he and Reno was submitted to IDWR several years ago but that this written agreement had either expired or may no longer be in effect. I understood from Johnson that he and Reno currently have a verbal agreement to rotate. I have not been able to locate a copy of any written agreement among our records but I believe I may have seen the document at the time it was submitted. Watermaster Doug Rosenkrance did not believe he had a copy this agreement in his office but he had understood the two users had either a verbal or written agreement.

I have discussed this rotation matter with the Department's legal counsel and my superiors. It is the Department's opinion that lateral rotations may be recognized provided that there is clear evidence that an agreement exists and that the agreement does not injure other water rights. The SRBA court has clearly recognized that the Upper Hatchery Canal is the lawful point of diversion for the Reno right. There should be no injury to your rights as long as Reno applies his right to beneficial use. The Department believes that there may be some question regarding the current status of the rotation agreement between Reno and Johnson. There may be an additional question as to whether the Reno right is beneficially used at all times. The Department will contact both Reno and Johnson and request evidence of a rotation

agreement. No further rotation of the rights may continue until evidence of an agreement is submitted. Notice will also be given to Reno and Johnson that they must maintain beneficial use of their rights. Failure to apply the rights to beneficial use is unlawful and could lead to enforcement proceedings by the Department. Any future complaints or questions regarding the application of beneficial use and/or the wastefulness of the Reno right shall first be investigated by the watermaster of Water District 34. IDWR may make additional investigations if necessary.

With respect to your other concerns regarding the adequacy of the measuring devices on the Shoupe and Navarro Ditches, I wish to formally report that Doug Rosenkrance made several inspections of the devices on these ditches this summer and found said devices to be adequate. Doug reported that a new weir had been installed this year on the Navarro Ditch. The weir on the Shoupe Ditch had been cleaned and the weir pool expanded this spring. Doug reported that both weirs were in good condition and providing adequate measurements. My own inspection notes of the Shoupe Ditch weir last fall indicate that the weir was structurally sound but needed weir pool maintenance. The necessary maintenance appears to have been addressed this year.

The IDWR field inspector who investigated the Reno lateral on August 10th also made a brief inspection of your headgates diversions on Warm Springs Creek. The inspector found that your irrigation diversion ditch had no control gate. I discussed this matter with you later and you advised that there was a slide gate for the culvert but that it may have been lying on the ground and obscured by nearby weeds or debris. I also found no control gate during my inspection of this same ditch last year. Please note that your ditch diversions must have adequate control devices installed at all times during the irrigation season. Please try to improve this deficiency before the next irrigation season.

Respectfully,



Tim Luke
Water Allocations

Enclosure

Cc: Doug Rosenkrance, Watermaster
Lynn Reno
Scott Johnson
Eastern Region

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